

ASSEMBLY BILL NO. 464—COMMITTEE ON WAYS AND MEANS

MARCH 28, 2005

Referred to Concurrent Committees on
Commerce and Labor and Ways and Means

SUMMARY—Makes various changes regarding manufacture, sale
and use of tobacco products. (BDR 32-1028)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted-material] is material to be omitted.

AN ACT relating to tobacco; making various changes regarding the
sale, delivery and taxation of cigarettes; revising the
duties, rights and licensing requirements of
manufacturers, wholesale dealers and retail dealers of
cigarettes; providing additional procedures for statutory
enforcement; increasing certain criminal penalties and
providing additional civil and criminal penalties; and
providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 370 of NRS is hereby amended by adding
thereto the provisions set forth as sections 2 to 28, inclusive, of this
act.

Sec. 2. *“Cigarette package” means the individual pack, box
or other container that contains a cigarette. The term does not
include a container that itself contains other containers, such as a
carton of cigarettes.*

Sec. 3. *“Counterfeit cigarettes” means any cigarettes or
cigarette packages:*

- 1. Bearing false manufacturing labels;*
- 2. Bearing counterfeit stamps; or*
- 3. Meeting any combination of the descriptions contained in
subsections 1 and 2.*



1 **Sec. 4.** *“Counterfeit stamp” means any stamp that:*

2 1. *Falsely depicts a stamp approved by the Department or a*
3 *tax stamp authorized pursuant to the laws of any other state*
4 *governing the taxation of cigarettes; or*

5 2. *Was not sold by the Department or its agents or pursuant*
6 *to the laws of any other state governing the taxation of cigarettes.*

7 **Sec. 5.** 1. *“Delivery sale” means any sale of cigarettes,*
8 *whether the seller is located within or outside of the borders of this*
9 *State, to a consumer in this State for which:*

10 (a) *The purchaser submits the order for the sale by means of a*
11 *telephonic or other method of voice transmission, the mail or any*
12 *other delivery service, or the Internet or any other on-line service;*
13 *or*

14 (b) *The cigarettes are delivered by mail or the use of another*
15 *delivery service.*

16 2. *For the purpose of this section, any sale of cigarettes to a*
17 *natural person in this State who does not hold a current license as*
18 *a wholesale or retail dealer constitutes a sale to a consumer.*

19 **Sec. 6.** *“Delivery service” means any person engaged in the*
20 *commercial delivery of letters, packages or other containers.*

21 **Sec. 7.** *“License” means a license issued pursuant to NRS*
22 *370.001 to 370.430, inclusive, and sections 2 to 28, inclusive, of*
23 *this act, that authorizes the holder to conduct business as a*
24 *manufacturer or a wholesale or retail dealer.*

25 **Sec. 8.** *“Licensee” means the holder of a license.*

26 **Sec. 9.** *“Manufacturer” means any person who:*

27 1. *Manufactures, fabricates, assembles, processes or labels a*
28 *finished cigarette; or*

29 2. *Imports, whether directly or indirectly, a finished cigarette*
30 *into the United States for sale or distribution in this State.*

31 **Sec. 10.** *“Place of business” means, for a person engaged in*
32 *business as:*

33 1. *A wholesale dealer, any location from which cigarettes are*
34 *distributed or where cigarettes are warehoused, stored or affixed*
35 *with stamps; or*

36 2. *A retail dealer, any store, stand, outlet or other location*
37 *through which cigarettes are distributed or sold to a consumer.*

38 **Sec. 11.** *“Secretary” means the Secretary of the United*
39 *States Department of the Treasury.*

40 **Sec. 12.** *“Shipping container” means a container in which*
41 *cigarettes are shipped in connection with a delivery sale.*

42 **Sec. 13.** *“Shipping documents” means bills of lading, airbills*
43 *or any other documents used to evidence an undertaking by a*
44 *delivery service to deliver letters, packages or other containers.*



1 **Sec. 14.** *“Stamp” means the indicia required to be placed on*
2 *a cigarette package that evidences payment of the taxes on*
3 *cigarettes imposed pursuant to NRS 370.0751 and 370.165.*

4 **Sec. 15.** *1. No license may be issued, maintained or*
5 *renewed:*

6 *(a) If the applicant for the license or any combination of*
7 *persons directly or indirectly owning, in the aggregate, more than*
8 *10 percent of the ownership interests in the applicant:*

9 *(1) Owes \$500 or more in delinquent cigarette taxes;*

10 *(2) Had a license as a manufacturer or as a wholesale or*
11 *retail dealer revoked by the Department within the past 2 years;*

12 *(3) Has been convicted of a crime relating to the sale of*
13 *stolen or counterfeit cigarettes or stamps or the receipt of stolen*
14 *cigarettes;*

15 *(4) Is a manufacturer who has:*

16 *(I) Imported any cigarettes into the United States in*
17 *violation of 19 U.S.C. § 1681a; or*

18 *(II) Imported or manufactured any cigarettes that do not*
19 *fully comply with the Federal Cigarette Labeling and Advertising*
20 *Act, 15 U.S.C. §§ 1331 et seq.; or*

21 *(5) Is a nonparticipating manufacturer who is not in full*
22 *compliance with subsection 2 of NRS 370A.140.*

23 *(b) Unless the applicant for the license certifies in writing,*
24 *under penalty of perjury, that the applicant will comply fully with*
25 *the provisions of chapter 370A of NRS.*

26 **2.** *As used in this section:*

27 *(a) “Manufacturer of tobacco products” has the meaning*
28 *ascribed to it in NRS 370A.060.*

29 *(b) “Nonparticipating manufacturer” means any*
30 *manufacturer of tobacco products that is not a participating*
31 *manufacturer.*

32 *(c) “Participating manufacturer” has the meaning ascribed to*
33 *it in NRS 370A.080.*

34 **Sec. 16.** *The Department shall create and maintain on its*
35 *Internet website and otherwise make available for public*
36 *inspection a list of all:*

37 *1. Currently valid licenses and the identity of the licensees*
38 *holding those licenses; and*

39 *2. Indian tribes on whose reservations or colonies cigarettes*
40 *or other products made from tobacco are sold and, pursuant to*
41 *NRS 370.515, from which the Department does not collect the tax*
42 *imposed by this chapter on such cigarettes or other products made*
43 *from tobacco sold on the reservations or colonies.*

44 *↪ The Department shall update the list at least once each month.*



1 **Sec. 17. 1.** *Except as otherwise provided in subsection 2 or*
2 *a regulation of the Department:*

3 (a) *No person, other than a wholesale dealer that receives*
4 *unstamped cigarette packages directly from a person who holds a*
5 *current permit to engage in business as a manufacturer or*
6 *importer of cigarettes issued pursuant to 26 U.S.C. § 5713, may*
7 *possess an unstamped cigarette package.*

8 (b) *Any person who ships unstamped cigarette packages into*
9 *this State other than to a wholesale dealer who holds a current*
10 *license shall first file with the Department a notice of that*
11 *shipment.*

12 2. *Subsection 1 does not apply to any common or contract*
13 *carrier who is transporting cigarettes in compliance with the*
14 *provisions of NRS 370.295.*

15 **Sec. 18. 1.** *Each manufacturer shall submit to the*
16 *Department periodic reports of:*

17 (a) *The quantity of cigarette packages that were distributed or*
18 *shipped to another manufacturer or to a wholesale dealer within*
19 *the borders of this State during the reporting period, and the name*
20 *and address of each person to whom those products were*
21 *distributed or shipped;*

22 (b) *The quantity of cigarette packages that were distributed or*
23 *shipped to another facility of the same manufacturer within the*
24 *borders of this State during the reporting period; and*

25 (c) *The quantity of cigarette packages that were distributed or*
26 *shipped within the borders of this State to Indian tribes or*
27 *instrumentalities of the Federal Government during the reporting*
28 *period, and the name and address of each person to whom those*
29 *products were distributed or shipped.*

30 2. *Each wholesale dealer shall submit to the Department*
31 *periodic reports of:*

32 (a) *The inventory of stamped and unstamped cigarette*
33 *packages held by the wholesale dealer for sale or distribution*
34 *within the borders of this State on hand at the beginning of the*
35 *reporting period;*

36 (b) *The inventory of cigarette packages held by the wholesale*
37 *dealer for sale or distribution outside of the borders of this State*
38 *on hand at the beginning of the reporting period;*

39 (c) *The quantity of stamped cigarette packages held for sale or*
40 *distribution within the borders of this State that were received by*
41 *the wholesale dealer from another person during the reporting*
42 *period, and the name and address of each person from whom*
43 *those products were received;*

44 (d) *The quantity of cigarette packages held for sale or*
45 *distribution outside of the borders of this State that were received*



1 *by the wholesale dealer from another person during the reporting*
2 *period, and the name and address of each person from whom*
3 *those products were received;*

4 *(e) The quantity of cigarette packages to which Nevada stamps*
5 *were affixed that were distributed or shipped to another wholesale*
6 *dealer or to a retail dealer within the borders of this State during*
7 *the reporting period, and the name and address of each person to*
8 *whom those products were distributed or shipped;*

9 *(f) The quantity of cigarette packages to which Nevada stamps*
10 *were affixed that were distributed or shipped to another facility of*
11 *the same wholesale dealer within the borders of this State during*
12 *the reporting period;*

13 *(g) The quantity of stamped cigarette packages that were*
14 *distributed or shipped within the borders of this State to Indian*
15 *tribes or instrumentalities of the Federal Government during the*
16 *reporting period, and the name and address of each person to*
17 *whom those products were distributed or shipped;*

18 *(h) The quantity of cigarette packages held for distribution*
19 *outside of the borders of this State that were distributed or shipped*
20 *outside of the borders of this State during the reporting period;*

21 *(i) The inventory of stamped and unstamped cigarette*
22 *packages held for sale or distribution within the borders of this*
23 *State on hand at the end of the reporting period;*

24 *(j) The inventory of cigarette packages held for sale or*
25 *distribution outside of the borders of this State on hand at the end*
26 *of the reporting period;*

27 *(k) The number of each type of stamp on hand at the*
28 *beginning of the reporting period;*

29 *(l) The number of each type of stamp purchased or received*
30 *during the reporting period;*

31 *(m) The number of each type of stamp applied during the*
32 *reporting period; and*

33 *(n) The number of each type of stamp on hand at the end of*
34 *the reporting period.*

35 *3. The reports required by this section must be:*

36 *(a) Submitted on forms provided by the Department; and*

37 *(b) Provided separately for each of the facilities operated by*
38 *the manufacturer or wholesale dealer.*

39 *4. In each report required by this section, the information*
40 *required must be itemized so as to disclose clearly:*

41 *(a) The quantities of stamped and unstamped cigarettes to*
42 *which the report applies; and*

43 *(b) The brand and style of cigarettes to which the report*
44 *applies.*

45 *5. The Department shall by regulation establish:*



1 (a) *A reporting period for the reports required by this section,*
2 *which must be not less than 1 month and not more than 3 months;*
3 *and*

4 (b) *Procedures for the electronic submission of the reports*
5 *required by this section.*

6 **Sec. 19.** 1. *A person shall not accept an order for a delivery*
7 *sale unless the person first obtains a license as a retail dealer.*

8 2. *A person who accepts an order for a delivery sale shall*
9 *comply with all of the requirements of this chapter and chapters*
10 *370A, 372 and 374 of NRS, and all other laws of this State*
11 *generally applicable to sales of cigarettes that occur entirely*
12 *within this State.*

13 **Sec. 20.** 1. *A person shall not cause the mailing or*
14 *shipment of cigarettes in connection with an order for a delivery*
15 *sale unless the person accepting the order first:*

16 (a) *Obtains from the prospective purchaser a certification*
17 *which includes:*

18 (1) *Reliable confirmation that the purchaser is at least 18*
19 *years of age; and*

20 (2) *A statement signed by the prospective purchaser in*
21 *writing and under penalty of perjury which:*

22 (I) *Certifies the prospective purchaser's address and*
23 *date of birth;*

24 (II) *Confirms that the prospective purchaser*
25 *understands that signing another person's name to such*
26 *certification is illegal and that sales of cigarettes to children under*
27 *18 years of age are illegal under the laws of this State; and*

28 (III) *Confirms that the prospective purchaser desires to*
29 *receive mailings from a tobacco company.*

30 (b) *Makes a good faith effort to verify the information*
31 *contained in the certification provided by the prospective*
32 *purchaser pursuant to paragraph (a) against any federal or*
33 *commercially available database established for that purpose.*

34 (c) *Sends to the prospective purchaser, by electronic mail or*
35 *other means, a notice which meets the requirements of subsection*
36 *2 and requests confirmation that the order for the delivery sale*
37 *was placed by the prospective purchaser.*

38 (d) *Receives from the prospective purchaser confirmation,*
39 *pursuant to the request described in paragraph (c), that such*
40 *person placed the order for the delivery sale.*

41 (e) *Receives payment for the delivery sale from the prospective*
42 *purchaser by a credit or debit card that has been issued in that*
43 *purchaser's name.*

44 2. *The notice required by paragraph (c) of subsection 1 must*
45 *include:*



1 (a) A prominent and clearly legible statement that the sale of
2 cigarettes to children under 18 years of age is illegal;

3 (b) A prominent and clearly legible statement that the sale of
4 cigarettes is restricted to persons who provide verifiable proof of
5 age in accordance with this section; and

6 (c) A prominent and clearly legible statement that sales of
7 cigarettes are taxable under this chapter, and an explanation of
8 how the tax has been or is to be paid with respect to the delivery
9 sale.

10 3. Persons accepting orders for delivery sales may request
11 that prospective purchasers provide their electronic mail
12 addresses.

13 **Sec. 21. 1. A person who causes the mailing or shipment of**
14 **cigarettes in connection with an order for a delivery sale shall:**

15 (a) Use a method of mailing or shipping that obligates the
16 delivery service to carry out the provisions of section 23 of this act;

17 (b) Provide to the delivery service retained to deliver the
18 delivery sale evidence that all taxes levied by this State with respect
19 to the delivery sale have been paid to this State; and

20 (c) Include as part of the shipping documents:

21 (1) A copy of the retail dealer's license authorizing the
22 delivery sale;

23 (2) An envelope addressed to the Department, with postage
24 prepaid, that contains an invoice which provides the information
25 required by section 22 of this act for that delivery sale; and

26 (3) A clear and conspicuous statement providing as follows:
27

28 **"DELIVERY SALE OF CIGARETTES: NEVADA LAW**
29 **PROHIBITS SHIPPING TO CHILDREN UNDER 18**
30 **YEARS OF AGE AND REQUIRES THE PAYMENT OF**
31 **ALL APPLICABLE TAXES."**
32

33 2. A person who accepts an order for a delivery sale and
34 delivers the cigarettes without using a third-party delivery service
35 shall comply with all the requirements of section 23 of this act
36 applicable to a delivery service.

37 **Sec. 22. Not later than the 10th day of each calendar month,**
38 **each person who has mailed, shipped or otherwise delivered**
39 **cigarettes in connection with a delivery sale during the previous**
40 **calendar month, except a delivery service, shall file with the**
41 **Department a memorandum or a copy of the invoice which**
42 **provides, for every such delivery sale:**

43 1. The name and address of the person to whom the delivery
44 sale was made; and



1 2. *The quantity and brands of cigarettes that were sold in the*
2 *delivery sale.*

3 **Sec. 23.** *1. Except as otherwise provided in subsection 2, a*
4 *delivery service shall:*

5 (a) *Before delivering a shipping container in connection with*
6 *a delivery sale:*

7 (1) *Ensure that the shipping documents include the*
8 *documents required by paragraph (c) of subsection 1 of section 21*
9 *of this act; and*

10 (2) *Obtain the evidence required by paragraph (b) of*
11 *subsection 1 of section 21 of this act regarding the cigarettes in the*
12 *shipping container.*

13 (b) *When delivering a shipping container in connection with a*
14 *delivery sale, require:*

15 (1) *The purchaser placing the order for the delivery sale, or*
16 *an adult designated by that purchaser, to sign to accept delivery of*
17 *the shipping container; and*

18 (2) *Proof, in the form of valid identification that was issued*
19 *by a governmental entity and bears a photograph of the person*
20 *who signs to accept delivery of the shipping container,*
21 *demonstrating:*

22 (I) *That the person is either the addressee or the adult*
23 *designated by the addressee; and*

24 (II) *If the person appears to be under 27 years of age,*
25 *that the person is at least 18 years of age.*

26 (c) *After delivering a shipping container in connection with a*
27 *delivery sale, mail to the Department the invoice included in the*
28 *shipping documents pursuant to paragraph (c) of subsection 1 of*
29 *section 21 of this act.*

30 2. *A delivery service is required to comply with the provisions*
31 *of subsection 1 only if the delivery service:*

32 (a) *Is obligated to do so under a method of shipping;*

33 (b) *Delivers any container pursuant to shipping documents*
34 *containing the statement described in paragraph (c) of subsection*
35 *1 of section 21 of this act; or*

36 (c) *Delivers any container that the delivery service otherwise*
37 *has reason to know contains cigarettes sold pursuant to a delivery*
38 *sale.*

39 **Sec. 24.** *In addition to any other penalty authorized by law:*

40 1. *The Department may:*

41 (a) *Impose a civil penalty of \$1,000 on any person who*
42 *knowingly:*

43 (1) *Omits, neglects or refuses to:*



1 (I) *Comply with any duty imposed upon him pursuant to*
2 *the provisions of NRS 370.080 to 370.315, inclusive, and sections*
3 *15 to 18, inclusive, of this act; or*

4 (II) *Do or cause to be done any of the things required*
5 *pursuant to those provisions; or*

6 (2) *Does anything prohibited by the provisions of NRS*
7 *370.080 to 370.315, inclusive, and sections 15 to 18, inclusive, of*
8 *this act.*

9 (b) *Impose on each person who violates any of the provisions*
10 *of sections 19 to 23, inclusive, of this act, a civil penalty of:*

11 (1) *Not more than \$1,000 for the first violation; and*

12 (2) *Not less than \$1,000 nor more than \$5,000 for each*
13 *subsequent violation.*

14 2. *Any person who fails to pay any tax imposed pursuant to*
15 *the provisions of NRS 370.080 to 370.315, inclusive, and sections*
16 *15 to 23, inclusive, of this act within the time prescribed by law or*
17 *regulation shall pay a penalty of 500 percent of the tax due but*
18 *unpaid, in addition to the tax.*

19 **Sec. 25.** *All fixtures, equipment and other materials and*
20 *personal property on the premises of any wholesale or retail dealer*
21 *who, with intent to defraud the State:*

22 1. *Fails to keep or make any record, return, report or*
23 *inventory required pursuant to NRS 370.080 to 370.315, inclusive,*
24 *and sections 15 to 23, inclusive, of this act;*

25 2. *Keeps or makes any false or fraudulent record, return,*
26 *report or inventory required pursuant to NRS 370.080 to 370.315,*
27 *inclusive, and sections 15 to 23, inclusive, of this act;*

28 3. *Refuses to pay any tax imposed pursuant to NRS 370.080*
29 *to 370.315, inclusive, and sections 15 to 23, inclusive, of this act;*
30 *or*

31 4. *Attempts in any manner to evade or defeat the*
32 *requirements of NRS 370.080 to 370.315, inclusive, and sections*
33 *15 to 23, inclusive, of this act,*

34 ↪ *is subject to forfeiture pursuant to NRS 179.1156 to 179.119,*
35 *inclusive.*

36 **Sec. 26.** 1. *It is unlawful for a person, with the intent to*
37 *defraud the State:*

38 (a) *To fail to keep or make any record, return, report or*
39 *inventory, or keep or make any false or fraudulent record, return,*
40 *report or inventory, required pursuant to NRS 370.080 to 370.315,*
41 *inclusive, and sections 15 to 23, inclusive, of this act, or any*
42 *regulations adopted for the administration or enforcement of those*
43 *provisions;*

44 (b) *To refuse to pay any tax imposed pursuant to NRS 370.080*
45 *to 370.315, inclusive, and sections 15 to 23, inclusive, of this act,*



1 *or attempt in any manner to evade or defeat the tax or the payment*
2 *thereof;*

3 (c) *To alter, forge or otherwise counterfeit any stamp;*

4 (d) *To sell or possess for the purpose of sale any counterfeit*
5 *stamp;*

6 (e) *To have in his possession any counterfeit stamp, with the*
7 *intent to use the counterfeit stamp, knowing or having reasonable*
8 *grounds to believe the stamp to be a counterfeit stamp;*

9 (f) *To have in his possession any stamp which he knows has*
10 *been removed from any cigarette package to which it was affixed;*

11 (g) *To affix to any cigarette package a stamp which he knows*
12 *has been removed from any other cigarette package; or*

13 (h) *To fail to comply with any requirement of NRS 370.080 to*
14 *370.315, inclusive, and sections 15 to 23, inclusive, of this act.*

15 2. *A person who violates any of the provisions of subsection 1*
16 *is guilty of a category C felony and shall be punished as provided*
17 *in NRS 193.130.*

18 **Sec. 27. 1.** *It is unlawful for any person knowingly to sell*
19 *or to possess for the purpose of sale any counterfeit cigarettes. The*
20 *presence of counterfeit cigarettes in a cigarette vending machine*
21 *is prima facie evidence of the purpose to sell those cigarettes.*

22 2. *A person who violates any provision of subsection 1 is*
23 *guilty of:*

24 (a) *For the first offense involving less than 400 cigarettes, a*
25 *misdemeanor.*

26 (b) *For each subsequent offense involving less than 400*
27 *cigarettes, a category D felony and shall be punished as provided*
28 *in NRS 193.130.*

29 (c) *For the first offense involving 400 or more cigarettes, a*
30 *gross misdemeanor.*

31 (d) *For each subsequent offense involving 400 or more*
32 *cigarettes, a category C felony and shall be punished as provided*
33 *in NRS 193.130.*

34 **Sec. 28.** *A person who:*

35 1. *Knowingly violates any of the provisions of sections 19 to*
36 *23, inclusive, of this act; or*

37 2. *Knowingly and falsely submits a certification pursuant to*
38 *paragraph (a) of subsection 1 of section 20 of this act in the name*
39 *of another person,*

40 *↪ is guilty of a category C felony and shall be punished as*
41 *provided in NRS 193.130.*

42 **Sec. 29.** *NRS 370.001 is hereby amended to read as follows:*

43 370.001 *As used in NRS 370.001 to 370.430, inclusive, and*
44 *sections 2 to 28, inclusive, of this act, unless the context otherwise*
45 *requires, the words and terms defined in NRS 370.005 to 370.055,*



1 inclusive, *and sections 2 to 14, inclusive, of this act* have the
2 meanings ascribed to them in those sections.

3 **Sec. 30.** NRS 370.015 is hereby amended to read as follows:

4 370.015 "Cigarette vending machine operator" means any
5 ~~[person]~~ *retail dealer* licensed to sell only Nevada stamped
6 cigarettes by means of coin-operated machines anywhere in Nevada.

7 **Sec. 31.** NRS 370.025 is hereby amended to read as follows:

8 370.025 "Contraband cigarettes" means any ~~[cigarettes~~
9 ~~exported]~~ :

10 1. *Counterfeit cigarettes; or*

11 2. *Cigarettes:*

12 (a) *Exported* from or imported into this State , *or mailed,*
13 *shipped, delivered or held for distribution within the borders of*
14 *this State* by any person in violation of any of the provisions of this
15 chapter ; or ~~[which are, in any way,]~~

16 (b) *In any way* held in the possession or constructive possession
17 of any person not authorized under this chapter to possess or
18 constructively possess ~~[these]~~ *the* cigarettes.

19 **Sec. 32.** NRS 370.033 is hereby amended to read as follows:

20 370.033 "Retail dealer" means any person , *whether located*
21 *within or outside of the borders of this State,* who ~~[offers to sell~~
22 ~~cigarettes at retail or who is engaged in selling cigarettes at retail.]~~
23 *sells or distributes cigarettes to a consumer within the State.*

24 **Sec. 33.** NRS 370.055 is hereby amended to read as follows:

25 370.055 "Wholesale dealer" means:

26 1. Any person , *whether located within or outside of the*
27 *borders of this State,* who ~~[brings]~~ :

28 (a) *Brings, sends,* or causes to be brought *or sent* into this State
29 *any* unstamped cigarettes purchased from the manufacturer or
30 another ~~[wholesaler, and who stores,]~~ *wholesale dealer; and*

31 (b) *Stores,* sells or otherwise disposes of ~~[them]~~ *those cigarettes*
32 *within the State.*

33 2. Any person who manufactures or produces cigarettes within
34 this State and who sells or distributes them within the State.

35 3. Any person , *whether located within or outside of the*
36 *borders of this State,* who acquires cigarettes solely for the purpose
37 of bona fide resale to retail dealers *in this State* or to other persons
38 *in this State* for the purpose of resale only.

39 **Sec. 34.** NRS 370.065 is hereby amended to read as follows:

40 370.065 In order to obtain evidence of any violation of this
41 chapter, the Department, its agents, and all peace officers and
42 revenue-collecting officers of this State ~~[shall have the right of~~
43 ~~visitation and inspection of any]~~ *may enter and inspect, without a*
44 *warrant during normal business hours and with a warrant at any*
45 *other time;*



1 1. *The facilities and records of any manufacturer, wholesale*
2 *dealer or retail dealer; and*

3 2. *Any other* place where they may have reason to believe
4 ~~[unstamped] contraband~~ cigarettes are stored, warehoused or kept
5 for sale. ~~[Such visitation and inspection shall be conducted during~~
6 ~~business hours.]~~

7 **Sec. 35.** NRS 370.080 is hereby amended to read as follows:

8 370.080 1. A person shall not engage in business as a
9 *wholesale* dealer ~~[of cigarettes]~~ in the State of Nevada unless he first
10 secures a ~~[wholesale or retail cigarette dealer's]~~ license *to engage in*
11 *that activity* from the Department.

12 2. *A person shall not engage in business as a retail dealer in*
13 *the State of Nevada unless he first secures a license to engage in*
14 *that activity from the Department.*

15 3. *A manufacturer shall not sell any cigarettes to a wholesale*
16 *dealer in the State of Nevada unless he first secures a license to*
17 *engage in that activity from the Department.*

18 4. *A separate license is required to engage in each of the*
19 *activities described in this section.*

20 **Sec. 36.** NRS 370.100 is hereby amended to read as follows:

21 370.100 An application for a ~~[cigarette dealer's]~~ license must:

22 1. Be made to the Department on forms prescribed by the
23 Department.

24 2. Include the name and address of the applicant. If the
25 applicant is a *firm, association or* partnership, the application must
26 include the names and addresses of ~~[all partners.]~~ *each of its*
27 *members.* If the applicant is a corporation, ~~[association or other~~
28 ~~organization.]~~ the application must include the names and addresses
29 of the president, vice president, secretary and managing officer or
30 officers.

31 3. Specify the location, by street and number, of the *principal*
32 *place of business of the applicant and of the* premises for which the
33 license is sought.

34 4. ~~[Be]~~ *Specify any other information the Department may*
35 *require.*

36 5. *Except as otherwise provided in NRS 370.001 to 370.430,*
37 *inclusive, and sections 2 to 28, inclusive, of this act, be*
38 accompanied by the required license fee.

39 ~~[5-]~~ 6. Be accompanied by a certified copy of the certificate
40 required by NRS 602.010 or any renewal certificate required by
41 NRS 602.035.

42 **Sec. 37.** NRS 370.140 is hereby amended to read as follows:

43 370.140 1. ~~[Wholesale cigarette dealers' licenses shall permit~~
44 ~~the holders]~~ *A current license as a:*



1 (a) *Manufacturer authorizes the holder* thereof to sell
2 cigarettes ~~[to retail dealers, or to other Nevada licensed wholesale~~
3 ~~cigarette dealers, or to cigarette vending machine operators~~
4 ~~anywhere in Nevada.~~

5 ~~2. No retailer, retail cigarette dealer or cigarette vending~~
6 ~~machine operator shall purchase any cigarettes from other than a~~
7 ~~Nevada licensed wholesale cigarette dealer.] anywhere within the~~
8 *borders of this State to a wholesale dealer who holds a current*
9 *license.*

10 (b) *Wholesale dealer authorizes the holder thereof to:*

11 (1) *Purchase cigarettes from any manufacturer or*
12 *wholesale dealer who holds a current license; or*

13 (2) *Sell cigarettes anywhere within the borders of this State*
14 *to any Indian tribe listed by the Department pursuant to section 16*
15 *of this act or any wholesale or retail dealer who holds a current*
16 *license.*

17 (c) *Retail dealer authorizes the holder thereof to:*

18 (1) *Purchase cigarettes from any wholesale dealer who*
19 *holds a current license; or*

20 (2) *Sell cigarettes anywhere within the borders of this State*
21 *to any consumer.*

22 2. *No person who holds a current license as a:*

23 (a) *Manufacturer may sell cigarettes within the borders of this*
24 *State to any person other than a wholesale dealer who holds a*
25 *current license.*

26 (b) *Wholesale or retail dealer may purchase cigarettes for sale*
27 *within the borders of this State or sell cigarettes within the borders*
28 *of this State except as authorized pursuant to subsection 1.*

29 **Sec. 38.** NRS 370.150 is hereby amended to read as follows:

30 370.150 1. *Each license issued by the Department is valid*
31 *only for the calendar year for which it is issued, and must be*
32 *renewed annually.*

33 2. The Department shall not charge *any* license fees for a
34 *manufacturer's or retail* ~~[cigarette]~~ dealer's license.

35 ~~[2.]~~ 3. An annual license fee of \$150 ~~[shall]~~ *must* be charged
36 for each wholesale ~~[cigarette]~~ dealer's license. If ~~[any license, other~~
37 ~~than the renewal of a delinquent license,]~~ *such a license* is issued at
38 any time during the year other than on January 1, *except for the*
39 *renewal of a delinquent license pursuant to subsection 5,* the
40 licensee shall pay a proportionate part of the annual fee for the
41 remainder of the year, but not less than 25 percent of the annual
42 license fee.

43 ~~[3.—Wholesale cigarette]~~



1 **4. The fees for a wholesale** dealer's license ~~fees~~ are due and
2 payable on January 1 of each year. If the annual license fee is not
3 paid by January 15, the license is cancelled automatically.

4 ~~[4.]~~ **5.** A wholesale ~~cigarette~~ dealer's license which is
5 cancelled for nonpayment of the annual license fee may be renewed
6 at any time by the payment of the fee plus a 5 percent penalty
7 thereon.

8 **Sec. 39.** NRS 370.210 is hereby amended to read as follows:

9 370.210 **1. A wholesale dealer whose stamping facilities are**
10 **located within the borders of this State shall affix stamps to all**
11 **applicable cigarette packages received at those stamping facilities**
12 **within 20 days after receipt. A wholesale dealer may set aside,**
13 **without affixing stamps, only that part of the stock of the**
14 **wholesale dealer that is identified for sale or distribution outside**
15 **of the borders of this State. A wholesale dealer must identify any**
16 **stock to be set aside pursuant to this subsection within 20 days**
17 **after the receipt of that stock.**

18 **2. A wholesale dealer may affix stamps only to cigarette**
19 **packages that the wholesale dealer has received directly from a**
20 **person who holds a current permit to engage in business as a**
21 **manufacturer or importer of cigarettes issued pursuant to 26**
22 **U.S.C. § 5713.**

23 **3. If a wholesale dealer maintains stocks of unstamped**
24 **cigarette packages as authorized pursuant to subsection 1, those**
25 **unstamped cigarette packages must be stored separately from**
26 **stamped cigarette packages and must not be transferred by the**
27 **wholesale dealer to another facility of the wholesale dealer within**
28 **the borders of this State or to any other person within the borders**
29 **of this State.**

30 **4.** A person shall not affix ~~cigarette revenue stamps or metered~~
31 ~~machine impressions~~ **stamps** to any ~~package, packet or container~~
32 ~~of cigarettes~~ **cigarette packages** except upon the premises
33 described in the license of a ~~cigarette~~ **wholesale** dealer or upon
34 other premises where authorized by regulation.

35 **Sec. 40.** NRS 370.250 is hereby amended to read as follows:

36 370.250 **1.** If any dealer in cigarettes upon which a
37 precollected or advance tax is required to be paid fails to **file any**
38 report ~~to~~ **required pursuant to NRS 370.240 with** the Department
39 or its agents on or before the date due, the Department may suspend
40 his license ~~or permit~~ until the report is received and found to be
41 correct.

42 **2.** The Department may temporarily suspend or permanently
43 revoke the ~~licenses~~ **license** of any ~~cigarette dealer~~ **licensee** for
44 violating, or causing or permitting to be violated, any of the
45 provisions of NRS 370.001 to 370.430, inclusive ~~[]~~, **and sections 2**



1 *to 28, inclusive, of this act, or any regulations adopted for the*
2 *administration or enforcement of any of those provisions.*

3 *3. The Department shall permanently revoke the license of*
4 *any licensee convicted of any felony pursuant to section 27 of this*
5 *act.*

6 **Sec. 41.** NRS 370.255 is hereby amended to read as follows:

7 370.255 *1. Each ~~[dealer authorized to purchase or affix~~*
8 *~~cigarette revenue stamps]~~ :*

9 *(a) Wholesale dealer shall maintain ~~[records of all cigarettes~~*
10 *~~received, sold or distributed by him. Each dealer shall also obtain~~*
11 *~~and keep receipts, freight bills, invoices and other documents~~*
12 *~~necessary to substantiate his records. Records and documents shall~~*
13 *~~be kept at the dealer's place of business]~~ *copies of invoices or**
14 *equivalent documentation for each of its facilities for every*
15 *transaction in which the wholesale dealer is the seller, purchaser,*
16 *consignor, consignee or recipient of cigarettes. The invoices or*
17 *documentation must indicate the name and address of the*
18 *consignor, seller, purchaser or consignee, and the quantity by*
19 *brand and style of the cigarettes involved in the transaction.*

20 *(b) Retail dealer shall maintain copies of invoices or*
21 *equivalent documentation for every transaction in which the retail*
22 *dealer receives or purchases cigarettes at each of its facilities. The*
23 *invoices or documentation must indicate the name and address of*
24 *the wholesale dealer from whom, or the address of another facility*
25 *of the same retail dealer from which, the cigarettes were received,*
26 *and the quantity of each brand and style of the cigarettes received*
27 *in the transaction.*

28 *(c) Manufacturer shall maintain copies of invoices or*
29 *equivalent documentation for each of its facilities for every*
30 *transaction in which the manufacturer is the seller, purchaser,*
31 *consignor, consignee or recipient of cigarettes. The invoices or*
32 *documentation must indicate the name and address of the*
33 *consignor, seller, purchaser or consignee, and the quantity by*
34 *brand and style of the cigarettes involved in the transaction.*

35 *2. The records required by this section must be preserved on*
36 *the premises described in the license of the manufacturer,*
37 *wholesale dealer or retail dealer in such a manner as to ensure*
38 *permanency and accessibility for inspection at reasonable hours*
39 *by authorized personnel of the Department. With the permission of*
40 *the Department, manufacturers, wholesale dealers and retail*
41 *dealers with multiple places of business may retain centralized*
42 *records, but shall transmit duplicates of the invoices or the*
43 *equivalent documentation to each place of business within 24*
44 *hours after the request of the Executive Director or his designee.*



1 **3. The records required by this section must be retained** for
2 not less than ~~[4]~~ 3 years **after the date of the transaction** unless the
3 Department authorizes, in writing, their earlier removal or
4 destruction.

5 **Sec. 42.** NRS 370.257 is hereby amended to read as follows:

6 370.257 **1. Each manufacturer, wholesale dealer and retail**
7 **dealer shall provide to the Executive Director and his designees**
8 **and to the Secretary or his designee, upon request, access to all the**
9 **reports and records required by NRS 370.001 to 370.430,**
10 **inclusive, and sections 2 to 28, inclusive, of this act. The**
11 **Department at its sole discretion may share the records and**
12 **reports required by those sections with law enforcement officials**
13 **of the Federal Government, this State, other states, Indian tribes**
14 **or international authorities.**

15 **2. Except as otherwise provided in this subsection, the reports**
16 **submitted by licensees pursuant to NRS 370.001 to 370.430,**
17 **inclusive, and sections 2 to 28, inclusive, of this act are public**
18 **records. Any information contained in those reports about**
19 **quantities of cigarettes by brand must not be released to anyone**
20 **other than persons permitted access to those reports pursuant to**
21 **subsection 1.**

22 **3.** The Department may audit the records of each dealer
23 ~~[authorized to purchase or affix cigarette revenue stamps]~~
24 to determine ~~[that]~~ **whether the manufacturer, wholesale dealer or**
25 **retail dealer has complied with the provisions of NRS 370.001 to**
26 **370.430, inclusive ~~[,]~~, and sections 2 to 28, inclusive, of this act.**

27 **Sec. 43.** NRS 370.301 is hereby amended to read as follows:

28 370.301 **1.** If any unstamped cigarettes are consigned to or
29 purchased by any person in this State, such purchaser or consignee
30 must be a person authorized by this chapter to possess unstamped
31 cigarettes.

32 **2.** If invoices or delivery tickets for unstamped cigarettes are
33 lacking, if the name or address of the consignee or purchaser is
34 falsified or if the purchaser or consignee is not authorized by this
35 chapter to possess unstamped cigarettes, the cigarettes transported
36 ~~[shall be]~~ **are** subject to seizure and sale under the provisions of
37 NRS 370.270.

38 **3.** Transportation of cigarettes through this State from a point
39 outside this State to a point in some other state is not a violation of
40 this section if the person transporting the cigarettes has in his
41 possession adequate invoices or delivery tickets which give the true
42 name and address of the out-of-state seller or consignor and the out-
43 of-state purchaser or consignee.

44 **4.** In any case where the Department, its duly authorized agent
45 or any peace officer of the State has knowledge or reasonable



1 grounds to believe that any vehicle is transporting cigarettes in
2 violation of this ~~[section,]~~ *chapter*, the Department, agent or peace
3 officer may stop the vehicle and inspect it for ~~[unstamped]~~
4 *contraband* cigarettes.

5 **Sec. 44.** NRS 370.380 is hereby amended to read as follows:

6 370.380 1. It is unlawful for a person, with the intent to
7 defraud the State:

8 (a) To alter, forge or counterfeit any license ~~[, stamp or cigarette~~
9 ~~tax meter impression provided for in this chapter,]~~ ; *or*

10 (b) To have in his possession any forged, counterfeited, spurious
11 or altered license ~~[, stamp or cigarette tax meter impression,]~~ with
12 the intent to use the same, knowing or having reasonable grounds to
13 believe the same to be such . ~~;~~

14 ~~—(c) To have in his possession one or more cigarette stamps or~~
15 ~~cigarette tax meter impressions which he knows have been removed~~
16 ~~from the pieces of packages or packages of cigarettes to which they~~
17 ~~were affixed;~~

18 ~~—(d) To affix to any piece of a package or package of cigarettes a~~
19 ~~stamp or cigarette tax meter impression which he knows has been~~
20 ~~removed from any other piece of a package or package of cigarettes;~~
21 ~~or~~

22 ~~—(e) To have in his possession for the purpose of sale cigarettes~~
23 ~~which do not bear indicia of the State of Nevada excise tax~~
24 ~~stamping. Presence of the cigarettes in a cigarette vending machine~~
25 ~~is prima facie evidence of the purpose to sell.]~~

26 2. A person who violates any of the provisions of subsection 1
27 is guilty of ~~[a misdemeanor on the first offense and upon the second~~
28 ~~or subsequent offense is guilty of]~~ a category ~~[D]~~ *C* felony and shall
29 be punished as provided in NRS 193.130.

30 **Sec. 45.** NRS 370.390 is hereby amended to read as follows:

31 370.390 Except as otherwise provided in NRS 370.380 ~~[,]~~ *and*
32 *section 26 of this act*, any person violating any of the provisions of
33 NRS 370.080 to ~~[370.310, inclusive, shall be]~~ *370.315, inclusive,*
34 *and sections 15 to 18, inclusive, of this act is* guilty of a gross
35 misdemeanor.

36 **Sec. 46.** NRS 370.410 is hereby amended to read as follows:

37 370.410 ~~[Any]~~ *Except as otherwise provided in section 27 of*
38 *this act, any* person exporting, importing, possessing or
39 constructively possessing contraband cigarettes is guilty of a gross
40 misdemeanor.

41 **Sec. 47.** NRS 370.415 is hereby amended to read as follows:

42 370.415 1. The Department, its agents, sheriffs within their
43 respective counties and all other peace officers of the State of
44 Nevada shall seize any *counterfeit stamps and any* contraband



1 cigarettes *and machinery used to manufacture contraband*
2 *cigarettes*, found or located in the State of Nevada.

3 2. A sheriff or other peace officer who seizes *stamps*, cigarettes
4 *or machinery* pursuant to this section shall provide written
5 notification of the seizure to the Department not later than 5
6 working days after the seizure. The notification must include the
7 reason for the seizure.

8 3. After consultation with the Department, the sheriff or other
9 peace officer shall transmit the cigarettes to the Department if:

10 (a) The cigarettes, except for revenue stamps or metered
11 machine impressions being properly affixed as required by this
12 chapter, comply with all state and federal statutes and regulations;
13 and

14 (b) The Department approves the transmission of the cigarettes.

15 4. Upon receipt of the cigarettes, the Department shall dispose
16 of the cigarettes as provided in subsection 4 of NRS 370.270.

17 5. ~~[[If the]]~~ *The* sheriff or other peace officer *who seizes any*
18 *stamps, cigarettes or machinery pursuant to this section shall:*

19 (a) *Destroy the stamps and machinery; and*

20 (b) *If he* does not transmit the cigarettes to the Department, ~~[[he~~
21 ~~shall]]~~ destroy the cigarettes.

22 **Sec. 48.** NRS 370.525 is hereby amended to read as follows:

23 370.525 1. Except as otherwise provided in subsection 2, a
24 person may institute a civil action in a court of competent
25 jurisdiction for appropriate injunctive relief if the person:

26 (a) Sells, distributes or manufactures cigarettes; and

27 (b) Sustains direct economic or commercial injury as a result of
28 a violation of ~~[[subsection 4 of NRS 370.240 or NRS 370.385.]]~~ *NRS*
29 *370.080 to 370.315, inclusive, and sections 15 to 23, inclusive, of*
30 *this act, NRS 370.380, 370.385 or 370.410, or section 26, 27 or 28*
31 *of this act.*

32 2. Nothing in this section authorizes an action against this
33 State, a political subdivision of this State, or an officer, employee or
34 agency thereof.

35 **Sec. 49.** NRS 370.530 is hereby amended to read as follows:

36 370.530 1. *The Attorney General or the district attorney of*
37 *the proper county may investigate and prosecute any civil or*
38 *criminal violation of this chapter.*

39 2. Sheriffs, within their counties, and all other peace officers of
40 the State of Nevada ~~[[are charged with the duty.]]~~ *shall*, without
41 further compensation, ~~[[of assisting]]~~ *assist* in the enforcement of this
42 chapter.



1 **Sec. 50.** NRS 179.1164 is hereby amended to read as follows:
2 179.1164 1. Except as otherwise provided in subsection 2,
3 the following property is subject to seizure and forfeiture in a
4 proceeding for forfeiture:

5 (a) Any proceeds attributable to the commission or attempted
6 commission of any felony.

7 (b) Any property or proceeds otherwise subject to forfeiture
8 pursuant to NRS 179.121, 200.760, 202.257, 453.301 or 501.3857
9 [4] *or section 25 of this act.*

10 2. Property may not, to the extent of the interest of any
11 claimant, be declared forfeited by reason of an act or omission
12 shown to have been committed or omitted without the knowledge,
13 consent or willful blindness of the claimant.

14 3. Unless the owner of real property or a mobile home:

15 (a) Has given the tenant notice to surrender the premises
16 pursuant to NRS 40.254 within 90 days after the owner receives
17 notice of a conviction pursuant to subsection 2 of NRS 453.305; or

18 (b) Shows the court that he had good cause not to evict the
19 tenant summarily pursuant to NRS 40.254,

20 ↳ the owner of real property or a mobile home used or intended for
21 use by a tenant to facilitate any violation of the provisions of NRS
22 453.011 to 453.552, inclusive, except NRS 453.336, is disputably
23 presumed to have known of and consented to that use if the notices
24 required by NRS 453.305 have been given in connection with
25 another such violation relating to the property or mobile home. The
26 holder of a lien or encumbrance on the property or mobile home is
27 disputably presumed to have acquired his interest in the property for
28 fair value and without knowledge or consent to such use, regardless
29 of when the act giving rise to the forfeiture occurred.

30 **Sec. 51.** 1. This act becomes effective upon passage and
31 approval for the purposes of adopting regulations and for taking
32 such other actions as are necessary to carry out the provisions of this
33 act;

34 2. This section and sections 1 to 15, inclusive, 17, 24, 27, 29 to
35 37, inclusive, 39, 41, 43, 46, 48, 49 and 50 of this act become
36 effective upon passage and approval; and

37 3. Sections 16, 18 to 23, inclusive, 25, 26, 28, 38, 40, 42, 44,
38 45 and 47 of this act become effective on January 1, 2006.



